

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

IN RE: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE) MDL NO. 1456
PRICE LITIGATION)
) CIVIL ACTION: 01-CV-12257-PBS
) 05-CV-11795-PBS
) 06-CV-10690-PBS
)
) Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)
)
State of Florida, et al. v. Alpharma,) Chief Mag. Judge Marianne B. Bowler
Inc., et al.)
)
State of Florida, et al. v. Mylan)
Laboratories, Inc., et al.)
)

STATUS REPORT SEPTEMBER 1, 2006

Pursuant to the Court's July 17, 2004 Procedural Order, the undersigned counsel for Plaintiffs hereby submit the following status report to the Court listing the status of all motions to date.

Respectfully Submitted,

DATED: September 1, 2006

By /s/ Mark S. Thomas

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MDL 1456 Status Report
State of Florida ex rel. Ven-A-Care v. Alpharma, Inc., et al.
Case No.: 05-CV-11795-PBS

Complaint in Intervention

On April 5, 2005, Plaintiffs filed a Complaint in Intervention styled *State of Florida v. Alpharma, Inc.*, No. 98-3032F (Fla. 2d Cir. Ct.) in the Florida Circuit Court for the Second Judicial Circuit in and for Leon County, Florida.

Removal to Federal Court

On July 20, 2005, Defendants removed this action to the United States District Court for the Northern District of Florida.

Transfer to the District Court of Massachusetts

On July 25, 2005, Defendant Sandoz, Inc., filed a notice of related action seeking transfer of this action to the District Court of Massachusetts. Plaintiffs filed a Notice of Non-Opposition to the Defendants' request to transfer. On August 25, 2005, the Judicial Panel on Multidistrict Litigation (JPML) transferred *State of Florida v. Alpharma, Inc. et al.*, Case No. 4:05-cv-257 (N.D. Fla.) to this Court and assigned Case No. 05-cv-11795. On September 1, 2005, this Court consolidated this case with Case No. 01-12257-PBS.

Motion for Remand and Memorandum of Law in Support of Motion for Remand

Before this case was transferred to this Court, on August 18, 2005, Plaintiffs filed a Motion for Remand and Memorandum of Law in Support of Motion for Remand to Florida Circuit Court in the United States District Court for the Northern District of Florida. After transfer, on September 14, 2005, the parties filed a Joint Motion for Consideration of Scheduling Order requesting that this Court adopt the parties' proposed scheduling order. On October 4, 2005, this Court granted the Parties' proposed scheduling order ("Scheduling Order").

Pursuant to the Scheduling Order, Plaintiffs filed revised Memoranda of Law with this Court.

Pending Motions to Date

Plaintiffs' Motion for Remand and Memorandum of Law in Support of Motion for Remand to Florida Circuit Court ("Motion to Remand") is **currently pending** before this Court. On January 27, 2006, this Court heard oral argument and took the Motion to Remand under advisement. No other motions are currently pending before this Court in this case.

MDL 1456 Status Report

State of Florida ex rel. Ven-A-Care v. Mylan Laboratories, Inc., et al.
Case No.: 06-CV-10690-PBS

Complaint in Intervention

On July 20, 2005, Plaintiffs filed a Complaint in Intervention styled *State of Florida v. Mylan Laboratories, Inc.*, Nos. 98-3032G (Fla. 2d Cir. Ct.) in the Court of the Second Judicial Circuit in and for Leon County, Florida.

Removal to Federal Court

On December 16, 2005, Defendants removed this action to the United States District Court for the Northern District of Florida.

Transfer to the District Court of Massachusetts

On April 12, 2006, the JPML transferred *State of Florida v. Mylan Laboratories, Inc. et al.*, Case No. 4:05-cv-490 (N.D. Fla.), to this Court and this case was assigned Case No. 1:06-CV-10690. On or about April 20, 2006, this Court entered an Order consolidating Case No. 1:06-CV-10690 with Case No. 01-CV-12257.

In light of the fact that this case has been transferred to this Court by the JPML, the Motion for Remand is **currently pending** before this Court. The parties have agreed upon on a briefing schedule that will provide for the timely filing of briefs reflecting First Circuit law and recent rulings concerning the scope of federal jurisdiction. That agreed briefing schedule will be filed with the Court concurrently with this status report or in the near future.

CERTIFICATE OF SERVICE

I hereby certify that I, Jonathan Shapiro, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on September 1, 2006, pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LEXIS File & Serve electronic filing service. I hereby also certify that a copy hereof was furnished via U.S. Mail this 1st day of September 2006, to the following:

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